IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7228 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAJPARA SATISH BALKRISHNA

Versus

DEPARTMENT OF TELECOMMUNICATIO

Appearance:

1. Special Civil Application No. 7228 of 1997

MR MEHUL SHARAD SHAH for Petitioner No. 1-3

MR KETAN A DAVE for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 19/10/2004

ORAL JUDGEMENT

Heard learned advocate Shri Shah for the petitioner and Mr. Ketan A. Dave for the respondents.

It is the case of the petitioner that the petitioners who are partners of M/s. Silver Sons, Nani Kadi, Taluka Kadi, District Mehsana having two telephone connections bearing subscriber No. 42822 and 63580. It is also the case of the petitioners that there is no complaint from the telecom department with respect to these telephones of the firm. According to the petitioners, in Kadi Town, one Arvindbhai Patel, residing at 18, SHivshakti Society, Kadi is also a subscriber and his telephone number is 2228 which was inspected by the Jr. Telecom Engineers and in the column of remarks, it was stated that there is an unauthorized fax machine and an extra private telephone is attached. According to the petitioners, in column no. 10, endorsement of petitioner no.2 was taken. Thereafter, on 27.8.1993, department issued a demand notice to said Arvindbhai P. Patel subscriber of Telephone NO. 2228 demanding an amount of Rs.43,501.00. Subsequently, on 10.9.1993, a copy of the same was sent to petitioner No.2. Thereafter, on 10.9.1996, petitioner no.2 was sent an intimation that he is liable to make the payment of Rs.43,501 since he had endorsed in column no. 10 failing which the telephone in the name of Silver Sons will be disconnected. Thereafter, with effect from 4th September, 1997, the telephones of Silver Sons came to be disconnected. Till the date of filing of the petition, the telephones were not reconnected and, therefore, present petition was filed by the petitioners.

Following order was passed by this court on 14th October, 1997 :

"By consent of both the sides, it is directed that the telephone No. 42822 will be restored to the petitioners on payment of Rs.10,000/- (Rupees ten thousand only) at this stage to the Respondent without prejudice to the rights and contentions of the parties and subject to the orders that may be made hereafter. SO to 24th October, 1997. Direct Service is permitted."

In view of the said order of this court dated 14.10.1997, telephone no. 42822 of the petitioner was reconnected by the department. Affidavit in reply, and rejoinder as well as additional affidavit in reply to the rejoinder have been filed.

In view of the orders of this Court, at present, the petitioners are enjoying facility of one telephone out of two. Now, looking to the grievance and dispute, as per my opinion, same are required to be examined by the higher authority of the department. Therefore, if

the higher authority of the department is directed to examine the same in detail and to pass appropriate order thereafter in accordance with law, same would met ends of justice between the parties.

Therefore, without entering into merits of the matter and in the facts and circumstances of the case, it is directed to the petitioners to send one copy of this petition together with all annexures thereto and the affidavit in reply and rejoinder as well as additional affidavit to the General Manager, Telecom District, Mehsana within fifteen days from the date of receipt of copy of this order. As and when such copy of the petition together with order of this Court is received by the General Manager, Telecom District, Mehsana, General Manager, Telecom District, Mehsana is directed to treat the same as a representation made by the petitioner and decide the same in accordance with law after giving reasonable opportunity of hearing to the petitioners and pass appropriate order in accordance with law within three months from the date of receipt of copy of and to communicate such order to the petitioners immediately thereafter and not to implement such order if it is adverse to the petitioners for a period of one month from the date of communication of such order to the petitioners. With these observations and directions, this petition is disposed of. Rule is made absolute in terms indicated hereinabove with no order as to costs. D.S.P.

(H.K. Rathod,J.)

Vyas